

Remarks

Claims 1-18 remain pending in the application.

Double Patenting

Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of Bystrom, Public access CPR and AED device, U.S. Patent 6,398,744 (June 4, 2002) in view of Halperin et al., Cardiopulmonary Resuscitation and Assisted Circulation System, U.S. Patent 4,928,674 (May 29, 1990) and Morgan et al., Defibrillator System Using Multiple External Defibrillators and a Communications Network, U.S. Patent 5,593,426 (Jan. 14, 1997). Claims 1-18 are not obvious in view of Halperin and Morgan for the reasons stated below.

Claims 1-4 and 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of Bystrom, Resuscitation device, U.S. Patent 6,599,258 (July 29, 2003) in view of Halperin. Claims 1-4 and 10-13 are not obvious in view of Halperin for the reasons stated below.

Claims 5-9 and 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of Bystrom, U.S. Patent 6,599,258, in view of Halperin and Kramer et al., Interactive External Defibrillation Using Multiple External Defibrillation and Drug Injection System, U.S. Patent 5,405,362 (Apr. 11, 1995). Claims 5-9 and 14-18 are not obvious in view of Halperin and Kramer for the reasons stated below.

Claims 1-4 and 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of Bystrom et al., Resuscitation alert System, U.S. Patent 6,090,056 (July 18, 2000) in view of

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Halperin. Claims 1-4 and 10-13 are not obvious in view of Halperin for the reasons stated below.

Claims 5-9 and 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of Bystrom et al., Resuscitation alert System, U.S. Patent 6,090,056 (July 18, 2000) in view of Halperin and Kramer. Claims 5-9 and 14-18 are not obvious in view of Halperin and Kramer for the reasons stated below.

Claims 1-4 and 10-13 are rejected under the judicially created doctrine of obviousness-type double patenting as being obvious over claims 1-3 of Rothman, Cardiac assist method using inflatable vest, U.S. Patent 6,179,793 (Jan. 18, 2001) in view of Halperin and Morgan. Claims 1-4 and 10-13 are not obvious in view of Halperin and Morgan for the reasons stated below.

Claims 5-9 and 14-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of Rothman in view of Halperin and Kramer, and 6,179,793. Claims 1-4 and 10-13 are not obvious in view of Halperin and Kramer for the reasons stated below.

A terminal disclaimer in compliance with 37 CFR 1.321(c) has not been filed with this response.

**Claim Rejections – 35 U.S.C. § 103 (Halperin and Morgan)**

The Office Action rejects claims 1-4 and 10-13 under 35 U.S.C. § 103(a) as being unpatentable over by Halperin et al., Cardiopulmonary Resuscitation and Assisted Circulation System, U.S. Patent 4,928,674 (May 29, 1990) in view of Morgan et al., Defibrillator System Using Multiple External Defibrillators and a Communications Network, U.S. Patent 5,593,426 (Jan. 14, 1997). The Examiner states Halperin teaches a resuscitation system including a chest compression device and a defibrillator. The Examiner further states Halperin also includes an EKG sensor and a

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processor for controlling the operation of the chest compression device and the defibrillator. The Examiner states in column 5, lines 54-68 of Halperin, that a "safety system tests itself on power-up to be sure it is operative." The Examiner suggests this safety system would inherently check all the parts of the system to make sure everything is in proper working order and that the system detects an error it would not allow operation of the system and display a message indicating a problem. If everything were in normal working order then the system would allow normal operation of the system. The Examiner further suggests this would appear to comprehend the claimed sensing means for determining the device has been activated. The Examiner also states Morgan also teaches a resuscitation system that includes an EKG sensor and a defibrillator for delivering a therapeutic shock to the patient based on the EKG signal. The Examiner also states Morgan also teaches a communication system for communicating with emergency medical system and personnel. The Applicant respectfully traverses this rejection.

The Examiner is incorrect in his suggestion that Halperin teaches the claimed sensing means for determining when the resuscitation device is in use. As the Examiner so stated, Halperin discloses in column 5, lines 54-68, "the safety system tests itself on power-up to be sure it is operative." This is a far different function than detecting whether the resuscitation device has been activated or is in use. The Examiner has ignored that Halperin states in column 5, lines 54-57 "The safety system monitors the level of pressure and the amount of time that pressure is present in each bladder and thus assures that excessive pressure is not present in the bladders even if there is a failure in the main system." There is nothing disclosed in Halperin to suggest its safety system determines when the resuscitation device is in use. What is stated in Halperin is the safety tests "itself" on power up to be sure it is operative. By testing "itself", the safety system is testing the safety system

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to determine if the safety system is operative. The safety system is not determining when the resuscitation device is in use. The safety system only tests "itself" on power-up. It does not determine whether the resuscitation device is in use or not in use. Further, in column 5, lines 49-53, Halperin states the safety system is "independent". It is ambiguous as to which system in Halperin must be powered-up to begin testing. It is evident the safety system in Halperin is merely testing the safety system to be sure the safety system is operable in addition to monitoring the level of pressure and the amount of time that pressure is present in the bladder.

It should also be noted that Morgan fails to disclose a resuscitation device comprising an automatic chest compression device and sensing means for determining when the resuscitation device is in use.

Since Halperin and Morgan each fail to disclose at least one common limitation recited in claim 1 and claim 10, sensing means for determining when the resuscitation device is in use, it follows that the combination of Halperin and Morgan fails to disclose the invention recited in claim 1 and claim 10. As such, claims 1 and 10, as well as claims 2-4 and 11-13 that depend therefrom, are patentable over Halperin in view of Morgan.

The Examiner further ignores the limitations found in the Applicant's claims 1-4 and 10-13. Claim 1 describes the communication system "capable of receiving an activation signal transmitted by the emergency medical personnel and conveying the activation signal to the processor wherein the processor is programmed to make the defibrillator operable when the processor receives the activation signal." Claim 10 describes "transmitting an activation signal to the processor, said activation signal transmitted by the emergency medical personnel, wherein the processor activates the defibrillator upon receiving the activation signal." Morgan does not disclose an activation signal.

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transmitted by the emergency medical personnel or transmitting an activation signal to the processor, said activation signal transmitted by the emergency medical personnel. Morgan does not require emergency medical personnel to authorize the use of the system and send an activation signal to the system authorizing its use. These limitation are also not found in Halperin. Since Halperin and Morgan each fail to disclose at least one common limitation recited in claim 1 and claim 10, an activation signal transmitted by the emergency medical personnel, it follows that the combination of Halperin and Morgan fails to disclose the invention recited in claim 1 and claim 10. As such, claims 1 and 10, as well as claims 2-4 and 11-13 that depend therefrom, are patentable over Halperin in view of Morgan.

The Office Action also does not state a motivation to combine the references. The Office Action states that it would have been obvious to combine the references in order to achieve a certain result, but does not identify a motivation to make the suggested combination. The Office Action identifies, at the time of the invention, it would have been obvious to one of ordinary skill in the art to combine Halperin to include a communication system as taught by Morgan to communicate resuscitation operation to an emergency medical system and personnel for proper supervisory control. There is no indication that this motivation is extant in the art and there is no motivation in either reference to combine them. The applicant requests that the claims be examined under the standards of Graham v. John Deere. That is, if a motivation can be identified in the art, it should be expressed to the Applicant so that the Applicant can address it.

Since Halperin and Morgan each fail to disclose at least one common limitation recited in claims 1-4 and 10-13 and since there is no motivation to combine the references, the Applicant believes claims 1-4 and 10-13 are patentable over Halperin in view of

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Morgan. Therefore, withdrawal of this rejection is respectfully requested.

**Claim Rejections - 35 U.S.C. § 103 (Halperin, Morgan, and Kramer)**

The Office Action rejects claims 5-9 and 14-18 under 35 U.S.C. § 103(a) as being unpatentable over by Halperin et al., Cardiopulmonary Resuscitation and Assisted Circulation System, U.S. Patent 4,928,674 (May 29, 1990) in view of Morgan et al., Defibrillator System Using Multiple External Defibrillators and a Communications Network U.S. Patent 5,593,426 (Jan. 14, 1997) and Kramer et al., Interactive External Defibrillation Using Multiple External Defibrillation and Drug Injection System, U.S. Patent 5,405,362 (Apr. 11, 1995). The Examiner states Kramer teaches a resuscitation system that includes a defibrillator and EKG measuring system. It is further stated Kramer teaches a communication system for communicating with an emergency medical system and personnel. Kramer also teaches means for delivering a drug to the patient. The Examiner further suggests when the safety system is engaged and the system finds a fault in the system the operation of the device would be disabled to prevent use of the faulty system. This would disable the drug delivery system making the means for the delivery inoperable unless activated by the processor. It is further alleged that it would have been obvious to one of ordinary skill in the art to modify Halperin to include a communication system as taught by Morgan and to include a drug delivery system as taught by Kramer. The Applicant respectfully traverses this rejection.

The Examiner is incorrect in his suggestions that Kramer discloses a safety system and discloses a communication system for communicating with an emergency medical system. There is no mention of a safety system in Kramer. In addition, the communication system in Kramer is merely capable of communicating information and instructions perceivable by a human operator (Kramer, column 4 lines 8-11). The system is also capable of

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receiving and analyzing input from a human operator relating to the cardiological treatment and condition of the patient (Kramer, column 4 lines 11-14). There is no mention in Kramer of communicating with an **emergency medical system** as claimed in the Applicant's invention. Further, Kramer also fails to disclose a **resuscitation device** comprising an automatic **chest compression device** and sensing means for **determining** when the **resuscitation device** is in use.

As discussed earlier, Halperin also fails to disclose, *inter alia*, sensing means for determining when the resuscitation device is in use. Similarly, Morgan fails to disclose, *inter alia*, sensing means for determining when the resuscitation device is in use as well.

Since Kramer, Halperin, and Morgan each fail to disclose at least one common limitation recited in claims 5-9 and 14-18, sensing means for determining when the **resuscitation device** is in use, it follows that the combination of Kramer, Halperin and Morgan also fails to disclose the invention recited in claims 5-9 and 14-18. Therefore, the Applicant's invention is not obvious and withdrawal of this rejection is respectfully requested.

The Examiner further ignores the limitations found in the Applicant's claims 5-9 and 14-18. Claim 5 describes the communication system "capable of receiving an activation signal transmitted by the emergency medical personnel and conveying the activation signal to the processor wherein the processor is programmed to make the defibrillator operable when the processor receives the activation signal." Claim 14 describes "transmitting an activation signal to the processor, said activation signal transmitted by the emergency medical personnel, wherein the processor activates the defibrillator upon receiving the activation signal." Morgan does not disclose an activation signal transmitted by the emergency medical personnel or transmitting an activation signal to the processor, said activation signal

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transmitted by the emergency medical personnel. Morgan does not require emergency medical personnel to authorize the use of the system and send an activation signal to the system authorizing its use. These limitations are also not found in Halperin or Kramer. Since Morgan, Halperin, and Kramer each fail to disclose at least one common limitation recited in claim 5 and claim 14, an activation signal transmitted by the emergency medical personnel, it follows that the combination of Halperin, Morgan, and Kramer fails to disclose the invention recited in claims 5-9 and 14-18. As such, claims 5-9 and 14-18 are patentable over Halperin in view of Morgan.

The Office Action also does not state a motivation to combine the references. The Office Action states that it would have been obvious to combine the references in order to achieve a certain result, but does not identify a motivation to make the suggested combination. The Office Action identifies, at the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Halperin to include a communication system as taught by Morgan and to include a drug delivery system as taught by Kramer. The Applicant respectfully traverses this rejection. There is no indication that this motivation is extant in the art and there is no motivation in either of the references to combine them. The applicant requests that the claims be examined under the standards of Graham v. John Deere. That is, if a motivation can be identified in the art, it should be expressed to the Applicant so that the Applicant can address it. For the 35 U.S.C. § 103(a) rejection, the Examiner must look to three separate references while failing to identify the motivation in any either references to combine them.

Since Kramer, Halperin, and Morgan each fail to disclose at least one common limitation recited in claims 5-9 and 14-18 and since there is no motivation to combine the references identified by the Examiner, the Applicant believes claims 5-9 and 14-18 are

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patentable over Halperin in view of Morgan and Kramer. As a result, withdrawal of this rejection is respectfully requested.

Conclusion

This response has addressed all of the Examiner's grounds for rejection. The rejections based on prior art have been traversed. Reconsideration of the rejections and allowance of the claims is requested.

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By:

  
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